

November 9, 2004

MEMORANDUM TO: Michael T. Lesar, Chief  
Rules and Directives Branch  
Division of Administration  
Office of Administration

FROM: Daniel M. Gillen, Deputy Director/**RA**/  
Decommissioning Directorate  
Division of Waste Management  
and Environment  
Office of Nuclear Material Safety  
and Safeguard

SUBJECT: NOTICE OF LICENSE AMENDMENT REQUEST OF WESTINGHOUSE  
ELECTRIC COMPANY, LLC, FESTUS, MISSOURI, AND  
OPPORTUNITY TO REQUEST A HEARING

Attached please find one signed original, four copies, and an electronic version on a 3.5-inch diskette of the subject *Federal Register* Notice for transmittal to the Office of the Federal Register for publication.

ADM/DAS/RDB has been given owner's rights to the Notice in Agency wide Documents Access and Management System (ADAMS) ML043000467. Publicly available Nuclear Regulatory Commission (NRC) documents referenced in the Notice have been finalized in ADAMS and profiled for public release. ADAMS accession numbers for all such documents are provided in the text under Further Information.

Copies of this Notice and the document being made available for public comment have been forwarded to the Office of the Chief Information Officer (OCIO) staff at [WEBWORK@nrc.gov](mailto:WEBWORK@nrc.gov) for posting to the NRC public Web site.

Please note that this Notice requires the insertion of a date by which a request for a hearing must be received. Insertion points are indicated parenthetically in bold type and brackets on pages 1 and 4 of the Notice.

Docket No. 70-36

Staff Contact: Amir Kouhestani

License No. SNM-33

Phone No. (301) 415-0023

Attachments:

1. One original and four copies
2. One 3.5-inch diskette (electronic version)

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**ML043000467**

\* see previous concurrence

OFC	DWMEP*		DWMEP*		DWMEP*		OGC*		DWMEP*	
NAME	CBurkhulter		AKouhestani		KGruss		STreby		DGillen by C. Craig	
DATE	10/26/04		10/13/04		10/26/04		10/28/04		11/9/04	

OFFICIAL RECORD COPY

**NUCLEAR REGULATORY COMMISSION**

**Docket No. 70-36**

**Notice of License Amendment Request of Westinghouse Electric Company, LLC,  
Festus, Missouri,  
And Opportunity to Request a Hearing**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of license amendment, and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by **[INSERT DATE: 60 DAYS FROM DATE OF PUBLICATION]**.

**FOR FURTHER INFORMATION CONTACT:** Amir Kouhestani, Project Manager,  
Decommissioning Directorate, Division of Waste Management and Environmental Protection,  
Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission,  
Washington, D.C. 20555-0001; Telephone: (301) 415-0023; fax number: (301) 415-5398;  
e-mail: [aak@nrc.gov](mailto:aak@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The Nuclear Regulatory Commission (NRC) has received, by letter dated October 5, 2004, a request from Westinghouse Electric Company, LLC, (WEC as the licensee) to amend Chapter 1 of Special Nuclear Materials License (No. SNM-33) to allow dismantlement and demolition of the building complexes at its Hematite facility located in Festus, Missouri. License No. SNM-33 authorizes the licensee to conduct certain decontamination activities necessary to reduce the current inventory of Atomic Energy Act materials e.g., packaging and shipping materials and to engage in activities necessary to plan for decommissioning of the site e.g., site characterization and maintaining the site in a safe condition pending license

termination. However, the licensee is prohibited from performing building demolition, soil and groundwater remediation, and conducting final status surveys until these activities are approved by a specific license amendment or an NRC - approved Decommissioning Plan. Specifically, the licensee requests authorization to dismantle and demolish Hematite facility buildings 101, 110, 115, 120, 230, 231, 235, 240, 245, 252, 253, 254, 255, 256, 260, and 261, all located on approximately ten acres of land at the Westinghouse Hematite facility.

An NRC administrative review, documented in a letter to Westinghouse dated October 14, 2004, found the amendment request acceptable to begin a technical review. If approved, the authorization to dismantle and demolish building, will be documented in an amendment to NRC License No. SNM-33. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

## **II. Opportunity to Request a Hearing**

The NRC hereby provides notice that this is a proceeding on an application for a license amendment to Special Nuclear Materials License No. SNM-33 to allow dismantlement and demolition of the building complexes at the WEC Hematite facility located in Festus, Missouri. In accordance with the general requirements in Subpart C of 10 CFR Part 2, as amended on January 14, 2004 (69 FR 2182), any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing.

In accordance with 10 CFR 2.302 (a), a request for a hearing must be filed with the Commission either by:

1. First class mail addressed to: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications; 2. Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff, between 7:45 a.m. and 4:15 p.m., Federal work days;
3. E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV); or
4. By facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Rulemakings and Adjudications Staff, at (301) 415-1101; verification number is (301) 415-1966.

In accordance with 10 CFR 2.302 (b), all documents offered for filing must be accompanied by proof of service on all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission, including:

1. The applicant, Westinghouse Electric Company, 3300 State Road P, Festus, Missouri 63028, Attention: Mr. Henry A. Sepp, Project Director; and
  2. The NRC staff, by delivery to the Office of the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
- Hearing requests should also be transmitted to the Office of the General Counsel, either by means of facsimile transmission to (301) 415-3725, or by email to [ogcmailcenter@nrc.gov](mailto:ogcmailcenter@nrc.gov).

The formal requirements for documents contained in 10 CFR 2.304 (b), (c), (d), and (e), must be met. In accordance with 10 CFR 2.304 (f), a document filed by electronic mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304 (b), (c), and (d), as long as an original and two (2) copies otherwise complying with all of the

requirements of 10 CFR 2.304 (b), (c), and (d) are mailed within two (2) days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.309 (b), a request for a hearing must be filed by **[insert date: 60 days from date of publication]**.

In addition to meeting other applicable requirements of 10 CFR 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309 (b).

In accordance with 10 CFR 2.309 (f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;

4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;

5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309 (f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requester/petitioner shall file contentions based on the applicant's environmental report. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical - primarily concerns issues relating to matters discussed or referenced in the Safety Evaluation Report for the proposed action.

2. Environmental - primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.

3. Emergency Planning - primarily concerns issues relating to matters discussed or referenced in the Emergency Plan as it relates to the proposed action.

4. Physical Security - primarily concerns issues relating to matters discussed or referenced in the Physical Security Plan as it relates to the proposed action.

5. Miscellaneous - does not fall into one of the categories outlined above.

If the requester/petitioner believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requester/petitioner must set forth the contention and supporting bases, in full, separately for each category into which the requester/petitioner asserts the contention belongs with a separate designation for that category.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309 (f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so in writing within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309 (g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.



### **III. Further Information**

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agency wide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice is ML042860234. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room PDR Reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's PDR, located in O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Please note that on October 25, 2004, the NRC suspended public access to ADAMS, and initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's web site. Interested members of the public may obtain copies of the referenced documents for review and/or copying by contacting the Public Document Room pending resumption of public access to ADAMS. The NRC Public Document Room is located at NRC

Headquarters in Rockville, MD, and can be contacted at 800-397-4209 or 301-415-4737 or [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 9th day of November , 2004.

For the Nuclear Regulatory Commission.

/RA/

Claudia M. Craig, Acting Deputy Director  
Decommissioning Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards